

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1012**

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**Introduced by Assembly Member Steinberg**

(Principal coauthor: Senator McPherson)

**(Coauthors: Assembly Members Chavez, Hancock, Runner, and Yee)**

*(Coauthors: Senators Aanestad, Kuehl, and Machado)*

February 20, 2003

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An act to add Section 48906.5 to the Education Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1012, as amended, Steinberg. Pupils: interrogation.

Existing law, with certain exceptions, requires a principal or other school official to immediately notify a pupil's parent or guardian if the official releases a pupil to a peace officer for the purpose of removing the pupil from the school premises.

This bill, with certain exceptions, would require the principal of a school to take immediate steps to seek the consent of the parent or guardian of an elementary school pupil prior to making the pupil available to a peace officer for questioning, and would prohibit making the pupil available for questioning if the parent or guardian requests that the pupil not be questioned until he or she can be present. The bill would permit an available staff or faculty member, selected by the pupil, to be present at the questioning if school officials are unable to contact a parent or guardian.

This bill would require the principal, prior to making a minor secondary school pupil available for questioning by a peace officer, to inform the pupil of the pupil's right to have his or her parent, guardian, or a school staff member selected by the pupil, present during the questioning.

By requiring these local school officials to perform these functions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 48906.5 is added to the Education Code,  
2 to read:  
3 48906.5. (a) (1) Before making an elementary school pupil  
4 available to a peace officer during school hours or during any  
5 school related or sponsored activity for the purpose of being  
6 questioned by a peace officer, the principal of the elementary  
7 school, or his or her designee, shall take immediate steps to obtain  
8 the oral consent of the parent or guardian of the pupil to permit the  
9 questioning.  
10 (2) If the parent or guardian requests that the pupil not be  
11 questioned until he or she can be present, the pupil may not be  
12 made available to the peace officer for questioning until the parent  
13 or guardian is present.  
14 (3) If school officials are unable, after reasonable efforts, to  
15 contact a parent or guardian in order to obtain consent pursuant to  
16 this subdivision, a member of the school faculty or staff selected  
17 by the pupil shall be present during the questioning.



1 (4) After the questioning has been completed, the principal or  
2 his or her designee shall immediately notify the parent or guardian  
3 that the questioning has occurred and make the staff member  
4 selected by the pupil available to inform the parent or guardian  
5 about the questioning.

6 (b) (1) Before making a secondary school pupil under 18 years  
7 of age available to a peace officer during school hours for the  
8 purpose of questioning by the peace officer, the principal of the  
9 school, or his or her designee, shall inform the pupil that the pupil  
10 has the right to request that his or her parent or guardian be present  
11 during the questioning.

12 (2) If the parent or guardian cannot be made available within  
13 a reasonable period of time, the principal or his or her designee  
14 shall inform the pupil that the pupil may select as an alternate, a  
15 member of the school faculty or staff who is reasonably available  
16 to be present during the questioning.

17 (3) If the pupil exercises his or her right pursuant to this  
18 subdivision to have a parent or guardian or a member of the school  
19 faculty or staff present during the questioning, the pupil may not  
20 be made available to the peace officer for questioning until the  
21 person designed by the pupil is present.

22 (c) Subdivisions (a) and (b) do not apply if either of the  
23 following conditions exist:

24 (1) ~~Due~~ *The peace officer reasonably believes that, due to*  
25 *exigent circumstances, the inability of the officer to immediately*  
26 *question the pupil will materially interfere with the ability of the*  
27 *officer to conduct his or her investigation and would present a*  
28 *substantial risk of serious harm. In the case of a pupil being*  
29 *questioned pursuant to this paragraph, the principal or his or her*  
30 *designee, shall take immediate and continuous steps to notify the*  
31 *parent or guardian about the questioning.*

32 (2) The minor pupil being questioned is suspected of being a  
33 victim of child abuse as defined in Section 11165.6 of the Penal  
34 Code, or the minor pupil is being questioned pursuant to Section  
35 305 of the Welfare and Institutions Code, and either the principal  
36 or his or her designee or the peace officer has reasonable belief that  
37 the pupil would be endangered by the notification requirements of  
38 subdivision (a) or (b).

39 (d) A school official present during the questioning of a pupil  
40 under this section may not disclose matters discussed with the

1 pupil other than to the parent or guardian of the pupil, the attorney  
2 for the pupil, other school officials, or a court.

3 (e) The failure of school officials to comply with this section  
4 does not render any evidence, otherwise lawfully obtained by a  
5 peace officer, inadmissible in a court of law or result in any other  
6 sanction in a criminal trial.

7 SEC. 2. Notwithstanding Section 17610 of the Government  
8 Code, if the Commission on State Mandates determines that this  
9 act contains costs mandated by the state, reimbursement to local  
10 agencies and school districts for those costs shall be made pursuant  
11 to Part 7 (commencing with Section 17500) of Division 4 of Title  
12 2 of the Government Code. If the statewide cost of the claim for  
13 reimbursement does not exceed one million dollars (\$1,000,000),  
14 reimbursement shall be made from the State Mandates Claims  
15 Fund.

